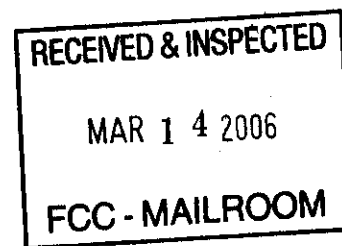


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740-947-4483
www.waverly.k12.oh.us

Waverly City Schools

Fax

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MAR 14 2006
FCC - MAILROOM

To: FCC Appeal**From:** Patrick Williams**Fax:** 202-418-0187**Pages:** 8**Phone:****Date:** 3-14-06**Re:** Appeal of SLD Denial**cc:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Attached is the documentation for our appeal of the SLD's denial of services.

Thanks.
Patrick

CC Docket No. 02-6
CC Docket No. 96-45
Request for Review

Appeal and/or Waiver of Denial of FRN 1226788 on Form 471 # 444786 in reference to
Funding Commitment Decision Letter for Funding Year 2005

Waverly City School District
500 E. Second St.
Waverly, OH 45690
740-947-4770
Cell 740-222-6278
Fax # 740-947-4483
patrickw@scoca-k12.org
Contact: Patrick Williams
Technology Coordinator

RECEIVED & INSPECTED

MAR 14 2006

FCC - MAILROOM

I am writing to Appeal the denial of funding for Internet Access services for the Waverly City School District from the following service provider: South Central Ohio Computer Association - Spin # 143027392. Our BEN # is 130059. The Form 471 # is 444786. The FRN # is 1226788.

The reason for denial of FRN 1226788 was given as follows: "28 day waiting period violated. A contract for a new service was signed prior to the required 28 day waiting period computed from the date of the posting of the Form 470 to the SLD Web Site."

It is our belief that the reviewer (John Harvey Jr.) made an error in the review of our Form 471. He did not clearly understand that the funding request was for the second year of a longer-term contract (as indicated on the FRN in Item 15d) and that there was an enabling Form 470 available for this funding request. I indicated in Item 15 (d) on the Form 471 (444786) that FRN 1226788 was the second year of a multi-year contract that was established under Form 470 #602020000458370. That Form 470 (602020000458370) was posted on 9/20/2003 and had an allowable contract date of 10/18/2003. I had, due to inexperience, mistakenly inserted the Form 470 number from 2005 in Item 12 of the FRN.

The SLD denied our appeal stating that the information we provided them did not correct the CAD being before the ACD of December 31, 2004. In our appeal we demonstrated evidence contrary to their denial the evidence we provided clearly indicated that the mistake was corrected by the information that we provided to the PIA reviewer. I am including a copy of the email that was sent to SLD providing them with the correct 470 # for this particular FRN. (see Attachment 1, email correspondence with the SLD/PIA representative Mr. Harvey.)

We believe this error caused an exception that should have been seen and could have been easily corrected since I had indicated that the funding request was for the second

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year of a contract in Item 15d on the Form 471 and entered the FRN 1112921 and PIA had that information readily available in their records. That FRN was correctly enabled by Form 470 602020000458370. The contract award date in 2004 would clearly be after the 28 day waiting period for the correct Form 470.

I believe that not only did we provide the correct Form 470 number enabling the approved contract, but that clear evidence was available in established PIA records of our previous year's E-rate filings to indicate the timeliness of the service through the enabling Form 470 identified in email exchanges with the SLD's PIA reviewer. Recent FCC appeal decisions (Glendale Unified School District, DA06-244, and Pasadena Unified, DA06-486) provide direction to SLD/PIA reviewers that they should review and consider information already in their possession before denying funding requests for inadvertent and easily correctable errors in initial data entry. The FCC decision on Pasadena Unified's appeal states:

"As an initial matter, we note that reasonable inquiry by USAC and better communication between USAC and the applicant could have resolved the issues that we now face in these Requests for Review. While we have previously noted that the burden of timely and accurately filing rests with the applicant, we are compelled to remind USAC that it retains an obligation to conduct a reasonable inquiry into the filings and materials that USAC itself has in its possession." (Pasadena Unified appeal decision DA06-486 at Para. 9)

I believe that our situation is very comparable to the previous FCC appeal situations and findings above and hope our appeal has a similar resolution. This funding request was correctly approved in its first year of funding and shown to have a timely enabling Form 470. That same Form 470 should be allowed to enable the second year of funding. I respectfully request that you approve this appeal and/or grant a waiver due to the fact that we clearly provided information to establish the correct Form 470 to enable the second year funding of our contracted service and restore funding request 1226788 to review and ultimate approval. Do not hesitate to contact me should you have any further questions.

Sincerely,



Patrick Williams

Patrick Williams
Waverly City School District
500 East Second Street
Waverly, OH 45690-1253

Billed Entity Number: 130059
Form 471 Application Number: 444786
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

January 31, 2006

Patrick Williams
Waverly City School District
500 East Second Street
Waverly, OH 45690-1253

Re: Applicant Name: WAVERLY CITY SCHOOL DISTRICT
Billed Entity Number: 130059
Form 471 Application Number: 444786
Funding Request Number(s): 1226788
Your Correspondence Dated: December 21, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1226788
Decision on Appeal: Denied
Explanation:

- In your appeal letter, you state that you believe PIA made an error in the review of your Form 471. You state that PIA did not understand and did not take the time to ascertain and determine that the funding request was for the second year of a longer-term contract (as indicated on the FRN in Item 15d) and that there was an enabling Form 470 available for this funding request. You indicated on the Form 471 (444786) that FRN 1226788 was the second year of a multi-year contract that was established under Form 470 #602020000458370. Form 470 #602020000458370 was posted on September 20, 2003 and had an allowable contract date of October 18, 2003. You explain that, due to inexperience, you mistakenly inserted the Form 470 number from 2005 in Item 12 of the FRN. This caused an exception that should have been seen and could have been easily corrected since you had indicated that the funding request was for the second year

of a contract in Item 15d on the Form 471 and entered the FRN 1112921. That FRN was correctly enabled by Form 470 602020000458370. The contract award date in 2004 would clearly be after the 28 day waiting period for the correct Form 470. You state that the PIA reviewer could have and should have easily remedied the discrepancy because all the information was there on the Form 471 funding request. You believe that PIA erred in reviewing the FRN in question and prematurely denied the funding request when clear evidence was available to indicate the eligibility of the service. You close by requesting that SLD approve this appeal and restore funding request 1226788.

- Upon review of the appeal letter and relevant supporting documentation, it was determined that the original request was correctly denied since the CAD (Contract Award Date) was before the ACD (Allowable Contract Date). During the PIA review, PIA sent you a request on November 28, 2005, asking you to provide a copy of your contract and to also verify the establishing Form 470 for the services being requested. On November 29, 2005, you faxed a copy of the contract which had a CAD (Contract Award Date) of January 13, 2004. You also sent PIA an email on December 1, 2005, verifying the establishing Form 470 #470800000517273. The information you provided to PIA did not correct the CAD being before the ACD of December 31, 2004. In order to meet competitive bidding requirements, program guidelines require applicants to wait 28 days before entering an agreement with service providers. Program rules do not permit the SLD to accept new information on appeal except where an applicant was not given opportunity to provide information during the initial review or an error was made by SLD. It is the responsibility of the applicant to ensure that all Forms are submitted to SLD in a timely and correct manner. Consequently, PIA denied the FRN in accordance with program rules. Hence SLD supports PIA's initial decision.
- The Item 21 attachments you provided in support of your Form 471 application, or documentation provided during review of your application, show that you selected your vendor prior to the end of the 28-day posting period. In your Receipt Notification Letter, SLD notified you that the earliest date upon which you could sign a contract or enter into an agreement (your Allowable Contract Date) was December 31, 2004. Consequently, SLD denies your appeal because your application did not comply with the competitive bidding requirement that your Form 470 be posted on the web site for 28 days prior to signing a contract or entering into an agreement for new products and/or services.
- You selected your vendor for new services prior to the expiration of the 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. 47 C.F.R. §§ 54.504; 54.511(a) and (c). FCC rules further require that the Administrator send the applicant a confirmation when the Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. 47 C.F.R. § 54.504(b)(4). These competitive bidding requirements help to ensure that applicants receive the lowest pre-

discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order on Reconsideration*, 12 FCC Rcd 10095, p. 10098; FCC 97-246 ¶ 9 (rel. Jul. 10, 1997). New services include tariff telecommunications services that are NOT subject to an existing, binding, written contract.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

patrick.williams

Attachment #1

From: Harvey, John [JHARVEY@necaservices.com]
To: patrick.williams
Cc:
Subject: RE:
Attachments:

Sent: Thu 12/1/2005 8:31 AM

Thank you!

John E. Harvey Jr.
Associate Manager,
Schools & Libraries Division
E-Rate Program
Tel: 973-581-5088
Fax: 973-599-6523
e-mail: jharvey@necaservices.com
Have a great day!

-----Original Message-----

From: PATRICKW@SCOCA-K12.ORG [mailto:PATRICKW@SCOCA-K12.ORG]
Sent: Thursday, December 01, 2005 7:23 AM
To: Harvey, John
Subject: RE:

Dec. 01, 05
Email

Hi John,

The original 470 that established the Internet Access contract was
602020000458370

Thanks,
Patrick Williams
Waverly City Schools
Waverly, OH

> I will plug in the # you used this year. If there is anything else
> needed I'll contact you.
> Thank you.

> John E. Harvey Jr.
> Associate Manager,
> Schools & Libraries Division
> E-Rate Program
> Tel: 973-581-5088
> Fax: 973-599-6523
> e-mail: jharvey@necaservices.com
> Have a great day!

> -----Original Message-----

> From: PATRICKW@SCOCA-K12.ORG [mailto:PATRICKW@SCOCA-K12.ORG]
> Sent: Tuesday, November 29, 2005 1:19 PM
> To: Harvey, John
> Subject:

> Hi John,

> I received your last message.

> I guess I am a little confused. Last year when we received our
funding

- > on 470
- > # 602020000458370, that was the 1st year of the multi-year contract.
- > This year
- > I applied on 470# 470800000517273 for funding on the second year of the
- > multi-year contract. Do I need to do something else?
- > Thanks,
- > Patrick Williams
- > Waverly City Schools